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11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 ROGER BARR, ELISA MONTES DE  
14 OCA, and GABRIELA FERNANDEZ,  
15 each individually and on behalf of all others  
16 similarly situated,

17 *Plaintiffs,*

18 v.

19 SELECTBLINDS LLC,

20 *Defendant.*  
21  
22  
23  
24  
25  
26  
27  
28

Case No. 2:22-cv-08326-SPG-PD

**Plaintiffs' Unopposed Notice of  
Motion and Motion for Final Approval  
of Class Action Settlement**

Date: February 28, 2024

Time: 1:30 p.m.

Dept: Courtroom 5C

Judge: Hon. Sherilyn Peace Garnett

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on February 28, 2024, at 1:30 p.m., in Courtroom  
3 5C of the United States District Court for the Central District of California, located at 350  
4 W. 1st Street, Los Angeles, California 90012, Plaintiffs Elisa Montes de Oca and Gabriela  
5 Fernandez will and hereby do move this Court for entry of an order:

- 6 1. Finally certifying the Settlement Class for settlement purposes;
- 7 2. Finally approving the class action Settlement as fair, adequate, and  
8 reasonable.

9 This Motion is based on this Notice of Motion and Motion for Final Approval of  
10 Class Action Settlement, the Declarations of Simon Franzini and Omeikiea Lorenzano,  
11 filed concurrently herewith, all supporting exhibits filed herewith, all other pleadings and  
12 papers filed in this action, and any argument or evidence that may be presented at the  
13 hearing in this matter. This Motion is unopposed by Defendant, SelectBlinds LLC.

14  
15 Dated: January 8, 2024

By: /s/ Simon Franzini  
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**Memorandum of Points and Authorities**

**I. Introduction.**

The Parties reached a hard-fought class-wide settlement in this case. Under the Settlement, Class Members are set to receive benefits worth a total of \$10,000,000, with an average direct payment of \$75 to each Class Member. This is an excellent outcome for the Class, especially given the significant risks presented by continued litigation.

On October 25, 2023, this Court considered the Settlement, preliminarily certified the Settlement Class, and preliminarily found that the Settlement was fair, adequate, and reasonable, and granted preliminary approval. Dkt. 52 (“Preliminary Approval Order”) at 16. After preliminary approval was granted, the Settlement Administrator faithfully executed the approved notice plan. *Id.* at 14-15. Notice was near universal and achieved a significantly above-average claims rate. And, the class reaction was overwhelmingly positive: not a single Class Member opted out of or objected to this Settlement.

Each of the factors the Court considered at preliminary approval supports final approval now that notice has been administered and the Settlement Class universally supports the Settlement. Though the Court’s review at preliminary approval was of course preliminary, the Court has already addressed each of the factors that are relevant at final approval and examined all the material terms of the Settlement. And nothing has changed since that review that should cause the Court to reconsider its prior decision.

Accordingly, the Court should grant final approval and finally certify the Settlement Class.

**II. The Settlement.**

**A. The Settlement Class.**

The Settlement Class, as conditionally certified by the Preliminary Approval Order, consists of all individual consumers who purchased one or more products from the SelectBlinds.com website for personal, family, or household purposes while residing in California, during the Class Period. Preliminary Approval Order at 9; *see* Dkt. 42-1 (“Agreement”) §I(DD). According to Defendant’s records, there are 111,509 class

members. Lorenzano Decl. ¶6.<sup>1</sup>

**B. Direct benefits paid to the Settlement Class.**

The Settlement Agreement requires SelectBlinds to pay approximately \$10,000,000 in benefits to the Settlement Class. Agreement §§III(E)(1), III(H)(1). Defendant will pay each Class Member an amount equal to 12% of that Class Member's total purchases from Defendant during the class period. *Id.* §III(E)(1). On average, this amounts to \$75 per Class Member. Franzini Decl. ¶21. And in total, the Settlement Class will receive approximately \$8,500,000 in direct benefits. *Id.* §III(E)(1).

The Agreement requires Defendant to make payments to each Settlement Class Member in one of two ways, at the Class Member's election. *Id.* §III(E)(1). Settlement Class Members can either: (1) file a claim and receive the payment they are entitled to in cash; or (2) do nothing, and automatically receive payment in the form of store credit that does not expire and can be used on any purchase on SelectBlinds.com. *Id.* §III(E)(1-4). This automatic distribution procedure ensures that 100% of Class Members—even those who do not file a claim—will actually receive the compensation they are due.

To make a claim, Settlement Class Members must fill out and submit a claim form online, or, if they prefer, mail the form to the Settlement Administrator. *Id.* §III(F)(2). The Claim Form is conveniently available on the Settlement website. Settlement Class Members can choose to receive cash payments through an online service like PayPal, via a pre-paid Mastercard, or in the form of a physical check delivered by the Settlement Administrator. *Id.* §III(G)(3). As discussed in greater detail below, 8,368 Class Members have thus far submitted a claim for cash relief. *See* §III(B) below. And Class Members still have until January 23, 2024, to file a claim, meaning that this number will continue to grow. Preliminary Approval Order, 15 (setting the deadline to submit a claim form).

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<sup>1</sup> At Preliminary Approval, the Parties had estimated that there would be 113,377 Class Members. Dkt. 42 ("Preliminary Approval Motion") at 9. Because the Parties' estimate was substantially accurate, all of the numbers the Parties' presented at Preliminary Approval (which were based on the estimate) are substantially accurate too.

1 If a Class Member does not file a claim for cash relief, they will automatically  
2 receive store credit that can be used to purchase any product sold on SelectBlinds’  
3 website. *Id.* §III(E)(3). Because SelectBlinds sells numerous products for less (often far  
4 less) than the average credit value of \$75, Class Members will be able to purchase  
5 products without spending any more of their own money. Franzini Decl. ¶19. And, the  
6 store credits never expire, can be used at any time with no blackout dates, and can be  
7 combined or “stacked” with other any other promotions or discounts. Agreement,  
8 §III(E)(3). This affords Class Members who choose to receive store credit maximum  
9 flexibility to use it when and how they want.

10 **C. Payment of administration costs, attorneys’ fees, and incentive awards.**

11 The Settlement also requires SelectBlinds to pay an additional \$1,497,500—on top  
12 of the direct payments discussed above—to cover notice and administration costs,  
13 attorneys’ fees and costs, and incentive awards. Agreement, §III(H)(1).

14 As of today, the Settlement Administrator has incurred \$36,736 in notice and  
15 administration costs. Lorenzano Decl. ¶21. And it estimates it will incur another \$30,000  
16 in additional costs to administer the Settlement through conclusion. *Id.* Thus, total notice  
17 and administration costs are expected to be approximately \$66,736.86. *See* Preliminary  
18 Approval Motion at 7 (estimating that administration would cost between \$63,990-  
19 74,000); Dkt. 42-5 (Declaration of Steven Weisbrot), ¶30 (estimating approximate costs  
20 of \$63,990, with a maximum cap of \$74,000).

21 In addition, Class Counsel requested a fee award of \$1,414,044 and costs of  
22 \$11,719.<sup>2</sup> Together, this amounts to \$1,425,764—less than 15% of the total Settlement  
23

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24 <sup>2</sup> In the Motion for Attorneys’ Fees and Incentive Awards, Class Counsel sought  
25 \$1,416,790 in fees and \$11,719 in costs, but explained that this request assumed that  
26 notice and administration costs would equal the Settlement Administrator’s estimate, and  
27 that, if administration costs were higher, they “would reduce [the] request accordingly to  
28 reflect this.” Dkt. 53-1 (Franzini Declaration in Support of Fees Motion), ¶28 n.2.  
Because costs were higher than the estimate, the ultimate fee request is for \$1,414,044 in  
fees and \$11,719 in costs.

1 value. Dkt. 53 (“Motion for Attorneys’ Fees, Costs, and Incentive Awards”), 1.

2 Class Counsel also requested \$2,500 incentive awards for each of Class  
3 Representative, for a total of \$5,000. *Id.* at 1. As explained in that Motion, these awards  
4 are justified to compensate the Class Representatives for their crucial service to the  
5 Class. *Id.* at 24-25; Preliminary Approval Order at 13 (“[T]he proposed allotment of a  
6 \$2,500 service award for each named Plaintiff, amounting to 0.05% of the total  
7 settlement value, appears fair and reasonable here.”)

8 **D. Limited release of claims.**

9 The Agreement provides a narrowly tailored release of only those claims that  
10 “arise from the same facts and claims alleged” in the First Amended Complaint. *Id.*  
11 §III(D). As the Court found in the Preliminary Approval Order, this “release is  
12 sufficiently narrowly tailored. It makes clear that the only claims being released in the  
13 agreement are limited to those that were ‘alleged in the operative complaint, or which  
14 arise from the same facts and claims alleged in the operative complaint in the Action’ or  
15 those that could have been brought in the action.” Preliminary Approval Order, 11-12.  
16 Thus, “it is not overly broad under the Ninth Circuit’s formulation.” *Id.*

17 **III. Settlement administration and notice.**

18 **A. The notice provided to Class Members.**

19 Angeion Group—the Court appointed Settlement Administrator—administered  
20 notice to the Settlement Class as directed in the Preliminary Approval Order. Preliminary  
21 Approval Order, 15 (approving the proposed notice plan); *id.* at 16 (naming Angeion  
22 Group the Settlement Administrator). First, Angeion collected a Class List consisting of  
23 names, emails, and addresses from Defendant. Lorenzano Decl. ¶5. The list identified  
24 111,509 Class Members. *Id.* Using this list, Angeion sent direct email notice to all Class  
25 Members with valid email addresses, totaling 108,056 Class Members. *Id.* ¶7-8. The  
26 notice forms, which were approved by the Court in the Preliminary Approval Order,  
27 provided information about the nature of the claims asserted in the lawsuit, a summary  
28 of the Settlement terms, relevant deadlines as set by the Court, and a statement about the

1 release of claims. Preliminary Approval Order at 15 (approving contents of notice form);  
2 Preliminary Approval Motion, Exhibit 1 (showing the notice forms). The notices also  
3 provided instructions on how Class Members could file a claim for a cash payment, and  
4 how they could opt-out or object to the Settlement, along with respective deadlines.  
5 Email notice was successfully delivered to 106,381 Class Members, more than 96% of  
6 Class Members. Lorenzano Decl. ¶8.

7 Where email addresses were invalid or email notice was undeliverable, Angeion  
8 provided mail notice—via postcard notice forms also approved by this Court—to the  
9 Class Members’ most recent California address according to Defendant’s records. *Id.*  
10 ¶10. Mail notice was delivered to an additional 5,080 Class Members in this manner. *Id.*  
11 ¶10-12 (mail notice was undeliverable to 48 Class Members).

12 In total, direct notice was successful for approximately 99.9% of the Class. *Id.*  
13 This near-universal notice is an excellent result, far more than is required. *See Edwards v.*  
14 *Nat’l Milk Producers Fed’n*, 2017 U.S. Dist. LEXIS 145217<sup>3</sup>, at \*19 (N.D. Cal. June 26,  
15 2017) (“[N]otice plans estimated to reach a minimum of 70 percent are constitutional  
16 and comply with Rule 23.”); *Dennis v. Kellogg Co.*, 2013 U.S. Dist. LEXIS 163118, at \*18  
17 (S.D. Cal. Nov. 14, 2013) (“Rule 23 only requires that the notice be the ‘best practicable  
18 under the circumstances.’ It need not be perfect.”) (citations omitted); *see e.g., Hartless v.*  
19 *Clorox Co.*, 273 F.R.D. 630, 641 (S.D. Cal. 2011) (notice sufficient where it was  
20 “estimated to reach 75-83 percent of the class.”).

21 In addition to direct notice, Angeion designed and hosted a Settlement Website  
22 dedicated to providing Class Members with information about the Settlement.  
23 Lorenzano Decl. ¶13-15 (explaining that, as of January 4, 2024, the Website had received  
24 30,080 page views). The Website provides relevant documents concerning the

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25 <sup>3</sup> Class Counsel’s firm uses Lexis, so Class Counsel does not have access to  
26 Westlaw. For some, but not all, unpublished cases, Lexis includes the Westlaw citation  
27 (but even for those, not the pincites). For those cases, Class Counsel included the  
28 Westlaw citation in the Table of Authorities, to attempt to accommodate the Court’s  
preference for Westlaw cites to the extent possible.

1 Settlement, including the Settlement Agreement, the Preliminary Approval Motion and  
2 Order, and, after it was filed, Class Counsels' Motion for Fees and Incentive Awards  
3 (and all accompanying documents).<sup>4</sup> It also includes a page dedicated to Frequently  
4 Asked Questions concerning the claims in the lawsuit, the settlement benefits and  
5 structure, how to file a claim form, how to opt-out or object to the settlement, and Class  
6 Counsels' role in the Settlement and requested fees. And it provides a fillable version of  
7 the Claim Form that Settlement Class Members can easily fill out and submit online.  
8 Finally, the Settlement Website (along with the distributed notice forms) provides  
9 contact information for Angeion and Class Counsel in case Class Members have  
10 questions, and lists the number of a toll-free hotline that has run 24 hours a day, 7 days a  
11 week since notice was first disseminated. Lorenzano Decl. ¶16.

12 **B. The optional claims process.**

13 As explained above, Class Members have the option to file a claim form to receive  
14 cash relief. The claims form is simple to fill out and can be submitted both online and  
15 through the mail. Class Members received clear instructions on how to access and file a  
16 claim form. Preliminary Approval Motion, Exhibit 1 (showing notice forms explaining  
17 how to file a claim form); <https://www.sbclassactionsettlement.com/faqs> (explaining  
18 how to access and submit a claim form).

19 That notice was successfully administrated is demonstrated by a thus-far cash  
20 claim rate of roughly 7.5%. Lorenzano Decl. ¶18. This rate—which will likely increase  
21 before the January 23 claims deadline—is well above average. *See Munday v. Navy Fed.*  
22 *Credit Union*, 2016 U.S. Dist. LEXIS 193973, at \*23 n.1 (C.D. Cal. Sep. 15, 2016)  
23 (“[D]istrict courts have recognized that ‘[t]he prevailing rule of thumb with respect to  
24 consumer class actions is [a claims rate of] 3-5 percent.’”); *see e.g., Schneider v. Chipotle*  
25 *Mexican Grill, Inc.*, 336 F.R.D. 588, 599 (N.D. Cal. 2020) (“Here, the 0.83% claims rate  
26 (which represents the estimated size of the targeted population of potential class

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27 <sup>4</sup> This Motion, along with supporting documents, will be uploaded to the  
28 Settlement Website after they are filed with the Court.

members compared to the actual claim submissions) is on par with other consumer cases.”); *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 944-45 (9th Cir. 2015) (affirming approval of settlement where less than 3.4% of class members filed claims). And this rate is particularly impressive given that the Settlement provides for automatic relief to Class Members, meaning that Class Members who preferred to receive their benefits under the settlement in the form of store credit did not need to file a claim. *See Taylor v. Shutterfly, Inc.*, 2021 U.S. Dist. LEXIS 237069, at \*21 (N.D. Cal. Dec. 7, 2021) (approving Settlement where the cash claims rate was approximately 2.5%).

**C. Opt-outs and objections.**

As explained above, Class Members were provided specific instructions on how to object or opt out of the settlement, in both direct notice forms and on the Settlement Website. But not a single Class Member filed an objection or requested to be excluded from the Settlement. Lorenzano Decl. ¶19-20.

**D. CAFA Notice.**

Finally, Angeion served notice of the proposed Settlement to state and federal officials as required by CAFA. *Id.* ¶4. No government official has objected to the Settlement in response to this notice.

**IV. The Court should finally approve the Settlement.**

**A. The Court should finally certify the Settlement Class.**

In the Preliminary Approval Order, the Court found that “all of Rule 23’s factors have been satisfied,” and thus, “conditionally certifie[d] Plaintiff’s proposed class for purposes of settlement.” Preliminary Approval Order at 5. The Court then specifically addressed each relevant factor and explained how each is satisfied by the Settlement Class. *Id.* at 5-6. Nothing has changed since then, and, accordingly, the Court should reach the same conclusion here for all the reasons set forth in the Court’s Preliminary Approval Order. *See In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices, & Prods. Liab. Litig.*, 2013 U.S. Dist. LEXIS 123298, at \*241 (C.D. Cal. July 24, 2013) (certifying class and stating “[n]othing has changed in the five-month period between

1 that preliminary class certification and today that suggests to the Court that the class  
2 should be decertified”); *see generally* Preliminary Approval Order.

3 **B. The Settlement is fair, adequate, and reasonable.**

4 A court may approve a class action settlement “only on finding that it is fair,  
5 reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). “To determine whether a settlement  
6 agreement meets these standards, a district court must consider a number of factors,  
7 including: (1) the strength of plaintiffs’ case; (2) the risk, expense, complexity, and likely  
8 duration of further litigation; (3) the risk of maintaining class action status throughout  
9 trial; (4) the amount offered in settlement; (5) the extent of discovery completed, and the  
10 stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a  
11 governmental participant; and (8) the reaction of the class members to the proposed  
12 settlement.” *Staton v. Boeing Co.*, 327 F.3d 938, 959 (9th Cir. 2003) (numbers added for  
13 clarity).

14 “The relative degree of importance to be attached to any particular factor will  
15 depend upon and be dictated by the nature of the claims advanced, the types of relief  
16 sought, and the unique facts and circumstances presented by each individual case.”  
17 *Officers for Justice v. Civil Serv. Com.*, 688 F.2d 615, 625 (9th Cir. 1982). And in weighing the  
18 factors, courts must remember that “[s]ettlement is the offspring of compromise; the  
19 question ... is not whether the final product could be prettier, smarter or snazzier, but  
20 whether it is fair, adequate and free from collusion.” *Hanlon v. Chrysler Corp.*, 150 F.3d  
21 1011, 1027 (9th Cir. 1998); *see Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir.  
22 1992) (“[S]trong judicial policy . . . favors settlements, particularly where complex class  
23 action litigation is concerned.”).

24 Here, Class Counsel negotiated an excellent settlement that should be finally  
25 approved.

26 **1. Plaintiffs’ case is strong, but continued litigation would present**  
27 **significant risks to class-wide recovery.**

28 In reaching the Settlement, Class Counsel reasonably balanced the strength of

1 Plaintiffs' case with the significant risks and substantial expense of continued litigation.  
2 While Class Counsel remains confident in the strength of the claims, "[t]he parties  
3 contest liability, and this settlement arises very early in the litigation, before any motions  
4 practice or class certification." *Klee v. Nissan N. Am., Inc.*, 2015 U.S. Dist. LEXIS 88270,  
5 at \*20 (C.D. Cal. July 7, 2015); *see Reyes v. CVS Pharmacy, Inc.*, 2016 U.S. Dist. LEXIS  
6 84721, at \*22 (E.D. Cal. June 28, 2016) (where "litigation remain[ed] in the early stages  
7 and [was] likely to continue for some time," settlement at that "stage appropriately  
8 balance[d] counsel's ability to develop an informed position with the desire to minimize  
9 risk, expense, and delay."). And, "[p]roceeding in this litigation in the absence of  
10 settlement poses various risks such as dismissal upon a dispositive motion, potentially  
11 potent defenses, increased costs and fees, and expiration of a substantial amount of time.  
12 Such considerations have been found to weigh heavily in favor of settlement." *In re*  
13 *MagSafe Apple Power Adapter Litig.*, 2015 U.S. Dist. LEXIS 11353, at \*20 (N.D. Cal. Jan.  
14 30, 2015).

15 Counsel approached negotiations recognizing that courts have dismissed similar  
16 class claims alleging fake discounts at every stage of litigation: on the pleadings, *see e.g.*,  
17 *Adams v. Haan*, 2020 U.S. Dist. LEXIS 176002, at \*1 (C.D. Cal. Sep. 3, 2020) (granting  
18 defendant's motion to dismiss in fake discount case); *Jacobo v. Ross Stores, Inc.*, 2016 U.S.  
19 Dist. LEXIS 86958, at \*1 (C.D. Cal. Feb. 23, 2016) (same); *Sperling v. DSW Inc.*, 2016  
20 U.S. Dist. LEXIS 11012, at \*25 (C.D. Cal. Jan. 28, 2016) (same); at summary judgment,  
21 *see e.g.*, *Sperling v. Stein Mart, Inc.*, 291 F. Supp. 3d 1076, 1087 (C.D. Cal. 2018) (granting  
22 defendant's motion for summary judgment in a fake discount case); *Chowning v. Kohl's*  
23 *Dep't Stores, Inc.*, 2016 U.S. Dist. LEXIS 37261, at \*1 (C.D. Cal. Mar. 15, 2016); and at  
24 class certification, *see e.g.*, *Chowning v. Kohl's Dep't Stores, Inc.*, 2016 U.S. Dist. LEXIS  
25 188341, at \*1 (C.D. Cal. Apr. 1, 2016) (denying motion for class certification in fake  
26 discount case); *Mueller v. Puritan's Pride, Inc.*, 2021 U.S. Dist. LEXIS 226103, at \*22 (N.D.  
27  
28

1 Cal. Nov. 23, 2021) (denying certification of a 23(b)(3) damages class).<sup>5</sup> See *Shvager v.*  
2 *Viasat, Inc.*, 2014 U.S. Dist. LEXIS 200808, at \*22 (C.D. Cal. Mar. 10, 2014) (“The fact  
3 that [plaintiff] faced hurdles certifying a class favors a finding that the settlement is  
4 fair.”). And, Defendant raised several substantive arguments that Plaintiffs would have  
5 to defeat and which would make continued litigation complex and risky. See Preliminary  
6 Approval Motion at 20 (detailing Defendant’s arguments); *Shvager*, 2014 U.S. Dist.  
7 LEXIS 200808 at \*19 (defendant “asserted several defenses to the claims that would  
8 have made the litigation hard-fought; this factor, therefore, weighs in favor of finding  
9 that the settlement is fair.”); *In re Tracfone Unlimited Serv. Plan Litig.*, 112 F. Supp. 3d 993,  
10 999 (N.D. Cal. 2015) (“[W]hile the Plaintiffs’ case appears strong, [defendant] is not  
11 without plausible defenses that could have ultimately left class members with a reduced  
12 or non-existent recovery. Thus, the first factor favors approval of this settlement.”).

13 For example, Defendant argued that Plaintiffs would be unable to prove damages  
14 on a class-wide basis. Preliminary Approval Motion at 20. While Class Counsel has spent  
15 significant time developing several viable and accurate class-wide damages models that  
16 Class Counsel is confident would have been accepted at class certification, it is true that  
17 courts have previously rejected class-wide damages and restitution models in fake  
18 discount cases. See *Chowning*, 2016 U.S. Dist. LEXIS 37261, at \*38 (granting summary  
19 judgment in a fake discount case because the plaintiffs “failed to demonstrate a viable  
20 measure of restitution,” and rejecting several proposed models); *Rael v. Children’s Place,*  
21 *Inc.*, 2020 U.S. Dist. LEXIS 13970, at \*30 (S.D. Cal. Jan. 28, 2020) (preliminarily  
22 approving fake discount settlement and acknowledging risk of continued litigation where  
23 the “state of the law regarding the appropriate method for calculating damages or  
24 restitution in these types of false pricing cases is in flux”). Counsel weighed this  
25 potentially significant obstacle to class recovery in negotiating this Settlement (while still  
26 demanding and achieving excellent relief for the Class). See *In re Tracfone*, 112 F. Supp. 3d

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27  
28 <sup>5</sup> To Class Counsel’s knowledge, no fake discount case has been taken to trial yet.

1 993, at 1001 (defendant raised a “significant obstacle to class certification —  
2 quantification of class members’ damages,” and while this, and other arguments  
3 concerning class certification “might not ultimately [have] foreclose[d] class certification,  
4 they present[ed] real challenges that Plaintiffs would have [had] to overcome were [the]  
5 Court to deny final approval.”); *Schneider v. Chipotle Mexican Grill, Inc.*, 336 F.R.D. 588,  
6 597 (N.D. Cal. 2020) (“Approval of a class settlement is appropriate when plaintiffs  
7 must overcome significant barriers to make their case”).

8 Moreover, regardless of Class Counsels’ success litigating this case going forward,  
9 continued litigation would impose significant expense and delay, cutting into any  
10 ultimate relief achieved for the Class. *See McKenzie v. Fed. Express Corp.*, 2012 U.S. Dist.  
11 LEXIS 103666, at \*9 (C.D. Cal. July 2, 2012) (“The central factor relating to the ‘risk,  
12 expense, complexity, and likely duration’” analysis “is the expense of litigation.”). Plus,  
13 “[e]ven if the class were ultimately to prevail ... trial and appeals would significantly  
14 delay class members’ ability to obtain compensation.” *Schaffer v. Litton Loan Servicing, LP*,  
15 2012 U.S. Dist. LEXIS 189830, at \*36 (C.D. Cal. Nov. 13, 2012); *see Bravo v. Gale Triangle,*  
16 *Inc.*, 2017 U.S. Dist. LEXIS 77714, at \*29 (C.D. Cal. Feb. 16, 2017) (“The Court finds  
17 that ‘[i]n light of the risks and costs of continued litigation, the immediate rewards to  
18 class members are preferable.”). So, “[t]he value of any judgment would therefore be  
19 discounted by the delay the class members would face in actually obtaining that  
20 judgment.” *Tait v. BSH Home Appliances Corp.*, 2015 U.S. Dist. LEXIS 98546, at \*21 (C.D.  
21 Cal. July 27, 2015). “By contrast, the proposed settlement provides certain, timely, and  
22 substantial relief.” *Id.*; *see In re LinkedIn User Privacy Litig.*, 309 F.R.D. 573, 587 (N.D. Cal.  
23 2015) (“Immediate receipt of money through settlement, even if lower than what could  
24 potentially be achieved through ultimate success on the merits, has value to a class,  
25 especially when compared to risky and costly continued litigation.”).

26 In short, continued litigation would present a significant risk of the Class  
27 recovering nothing; and a certainty of increased expenses and delay. And Class Counsel,  
28 who have significant experience with consumer class actions, and fake discount cases in

1 particular, weighed all of this—while continuing to recognize the strength of the case—  
2 in negotiating this Settlement. Franzini Decl. ¶24; *see In re LinkedIn*, 309 F.R.D. 573, at  
3 586 (courts may “presume that through negotiation, the Parties, counsel, and mediator  
4 arrived at a reasonable range of settlement by considering Plaintiffs likelihood of  
5 recovery.”).

6 **2. Class Counsel thoroughly investigated the claims, conducted**  
7 **significant informal discovery, and was well-informed during**  
8 **negotiations.**

9 “When assessing a settlement[,] courts focus on whether the ‘parties have  
10 sufficient information to make an informed decision about settlement.’” *Ronquillo-Griffin*  
11 *v. TransUnion Rental Screening Sols., Inc.*, 2019 U.S. Dist. LEXIS 79021, at \*21 (S.D. Cal.  
12 May 9, 2019). Here, Class Counsel thoroughly investigated the claims and relied on their  
13 own substantial experience, as well as significant informal discovery, in making decisions  
14 about settlement.

15 Before even filing this case, Class Counsel conducted a thorough investigation  
16 into Defendant’s sales and pricing. Counsel gathered, reviewed, and analyzed years of  
17 archival data concerning the frequency of Defendant’s sales and the legitimacy of  
18 Defendant’s listed prices. Franzini Decl. ¶10. And, to determine whether Defendant’s  
19 deception regarding sales and pricing policies was on going, Counsel conducted  
20 additional daily monitoring of Defendant’s website for months after filing. *Id.* In  
21 addition, Counsel undertook significant legal research and analysis to fully understand  
22 the strength of Plaintiffs’ claims and the potential defenses available to Defendant. *Id.*; *see*  
23 *In re LinkedIn*, 309 F.R.D. 573, at 588 (“Formal discovery is not a requirement  
24 for final settlement approval; [r]ather, the court’s focus is on whether the parties  
25 carefully investigated the claims before reaching a resolution.”). Plus, Class Counsel has  
26 special expertise in fake discount class actions, and drew on that knowledge and  
27 experience to evaluate the claims and defenses in this case. *Id.* ¶¶ 7-9.

28 Prior to mediation, the Parties exchanged substantial informal discovery, including

1 detailed data concerning Defendant's sales and financials, and information about  
2 Plaintiffs' purchases. Franzini Decl. ¶12; *see Bellinghausen v. Tractor Supply Co.*, 306 F.R.D.  
3 245, 257 (N.D. Cal. 2015) ("In the context of class action settlements, as long as the  
4 parties have sufficient information to make an informed decision about settlement,  
5 'formal discovery is not a necessary ticket to the bargaining table.'"); *Hashemi v. Bosley,*  
6 *Inc.*, 2022 U.S. Dist. LEXIS 210946, at \*14 (C.D. Cal. Nov. 21, 2022) (while "no formal  
7 discovery took place," the parties "did conduct informal pre-mediation discovery which  
8 generally supports final approval."). Class Counsel thoroughly analyzed the produced  
9 documents, and engaged an expert to help evaluate Defendant's data. Franzini Decl. ¶12.  
10 The Parties also postponed the initial mediation to exchange more information and to  
11 ensure that Class Counsel had enough time and all the information needed to make an  
12 informed decision about settlement. *Id.* ¶13. And, Class Counsel attended a pre-  
13 mediation presentation by Defendant's counsel concerning Defendant's sales and  
14 financial information before ultimately attending the mediation which led to the  
15 resolution of the case. *Id.*

16 So, in sum, Class Counsel gathered and considered all necessary information to  
17 make an informed decision regarding settlement. Plus, "[t]he parties' use of mediation,"  
18 which took place after significant informal discovery, "and their reliance on the  
19 mediator's proposal in settling demonstrate that the parties considered a neutral opinion  
20 in evaluating the strength of their arguments," and this too "weigh[s] in favor  
21 of settlement." *Ontiveros v. Zamora*, 303 F.R.D. 356, 371 (E.D. Cal. 2014); *see* Franzini  
22 Decl. ¶14 (explaining that the Parties accepted a mediator's proposal after substantial  
23 negotiation).

24 **3. The Settlement will provide outstanding relief—worth**  
25 **approximately \$10 million in total—to the Settlement Class.**

26 In considering whether to grant final approval, "[t]he relief that the settlement is  
27 expected to provide to class members is a central concern." *Broomfield v. Craft Brew All, Inc.*,  
28 2020 U.S. Dist. LEXIS 74801 at \*26 (N.D. Cal. Feb. 5, 2020). Here, as explained above,

1 the Settlement provides approximately \$10,000,000 in benefits to Settlement Class  
2 Members—approximately \$8,500,000 in direct benefits, and an additional \$1,497,500 to  
3 fund litigation and administration costs, attorneys’ fees, and incentive awards. §II above;  
4 *see Broomfield*, 2020 U.S. Dist. LEXIS 74801, at \*80 (to calculate the value of a settlement  
5 for purposes of evaluating fees, “the Ninth Circuit and courts in this district have included  
6 attorneys’ fees, settlement administration costs, and litigation expenses” in the total value);  
7 Motion for Attorneys’ Fees and Incentive Awards at 6-9 (discussing the value of the  
8 Settlement).

9 Under the Agreement, every Class Member will get 12% of their purchase price  
10 back, and the average payment will be approximately \$75. Franzini Decl. ¶19. And,  
11 because the Settlement creates a separate fund for the payment of administration costs,  
12 attorneys’ fees and costs, and incentive awards, each Class Member will receive the full  
13 12% to which they are entitled. Franzini Decl. ¶16. This is an outstanding recovery for  
14 Class Members, and is far more than consumers typically recover in similar cases. *See, e.g.,*  
15 *Baker v. Seaworld Entm’t, Inc.*, 2020 U.S. Dist. LEXIS 131109, at \*32 (S.D. Cal. July 24,  
16 2020) (noting that a recovery amounting to “14% of the maximum amount the Class  
17 could have recovered” is “higher than ‘the typical recovery in similar court-approved  
18 settlements by considerable margin’”); *Chester v. TJX Cos.*, 2017 U.S. Dist. LEXIS 201121,  
19 at \*21 (C.D. Cal. Dec. 5, 2017) (preliminarily approving an \$8,500,000 settlement in a fake  
20 discount case with an average award of approximately \$37.00, assuming a 2% claims rate);  
21 *Jacobo v. Ross Stores, Inc.*, 2018 U.S. Dist. LEXIS 248252, at \*25 (C.D. Cal. Dec. 7, 2018)  
22 (approving an \$4,854,000 settlement in a fake discount case with an average award of  
23 approximately \$16.70, assuming a 2% claims rate).

24 Importantly, this is not a “claims made” settlement with a “hypothetical ...  
25 settlement cap” that will only need to be paid out if everybody files a claim. *Cf. Lowery v.*  
26 *Rhapsody Int’l, Inc.*, 75 F.4th 985, 991 (9th Cir. 2023) (settlement was nominally valued at  
27 \$20 million, but this was merely a hypothetical cap that would only be paid out if every  
28 class member made a claim). Rather, 100% of the \$8,500,000 in direct compensation will

1 be actually paid to Class Members, either in cash or store credit. And the remainder will  
2 be used to pay for the fees and costs that made the Settlement possible in the first place.  
3 None of it will revert to Defendant. Agreement, §§III(H)(4), VIII. Plus, the Settlement is  
4 structured so that *every* Class Member will receive payment automatically, even if they do  
5 not make a claim. Thus, the Settlement provides for more comprehensive relief than the  
6 vast majority of similar class action settlements, which require Class Members to file a  
7 claim to receive relief. *See e.g., Spann v. J.C. Penney Corp.*, 314 F.R.D. 312, 332 (C.D. Cal.  
8 2016) (preliminarily approving a fake discount settlement where consumers had to file a  
9 claim form to receive a settlement benefit); *Chester*, 2017 U.S. Dist. LEXIS 201121, at \*21  
10 (C.D. Cal. Dec. 5, 2017) (same); *Jacobo*, 2018 U.S. Dist. LEXIS 248252, at \*25 (same).  
11 Such an excellent overall and per-Class Member recovery strongly supports final approval.  
12 *See Medeiros v. HSBC Card Servs.*, 2017 U.S. Dist. LEXIS 178484, at \*14 (C.D. Cal. Oct. 23,  
13 2017) (“Because the amount offered in settlement compares favorably to other CIPA class  
14 action settlements, the Court finds that the settlement in this case is fair, adequate, and  
15 reasonable”); *id.* at \*12-13 (final approval granted where plaintiffs “secured a  
16 total settlement amount of \$13,000,000.00,” which “amount[ed] to an average gross per-  
17 class-member recovery of approximately \$7.54” as compared to other similar “cases in  
18 which courts have approved settlements with far lower average gross per-class-member  
19 recoveries than the settlement here—between \$0.75 and \$6.98 per class member.”); *In re*  
20 *LinkedIn User Privacy Litig.*, 309 F.R.D. 573, 588 (N.D. Cal. 2015) (granting final approval  
21 where “the amount of the agreed-upon settlement fund compare[d] favorably to that of  
22 other similar class actions.”).

23 Nor, as the Court found in granting preliminary approval, is this “merely a ‘coupon’  
24 settlement.” Preliminary Approval Order, 12; *see In re Online DVD-Rental Antitrust Litig.*,  
25 779 F.3d 934, 951 (9th Cir. 2015) (distinguishing settlements involving gift cards or store  
26 credit like the one here from “coupon” settlements subject to CAFA). Every Class  
27 Member can receive their share of the settlement in cash, without decreasing the amount  
28 they receive by a cent. Agreement, §§III(E)(4), VIII. And those who elect to receive store

1 credit will not merely get “the chance to receive a percentage discount on a purchase of a  
2 specific item or set of items.” *In re Online DVD-Rental* at 951 (describing typical coupon  
3 settlements). They will get store credits with a specific dollar value, that “can be used for  
4 any products on [Defendant’s website],” “do not expire,” and—because Defendant sells  
5 numerous products for less than \$75, *see* Franzini Decl. ¶19—“do not require consumers  
6 to spend their own money.” *In re Online DVD-Rental* at 951. So under controlling law, they  
7 are not “coupons” under CAFA. *Id.* (holding that a settlement providing for the  
8 distribution of store credit gift cards with largely the same properties as the store credit  
9 here was not a coupon settlement and was not subject to CAFA); *see, e.g., Hendricks v.*  
10 *Ference*, 754 F. App’x 510, 512 (9th Cir. 2018) (vouchers for purchasing Starkist Tuna were  
11 “not a form of coupon relief under [CAFA]” because the vouchers “did not expire” and  
12 were transferrable, “could be used at a wide variety of stores,” and had “sufficient value  
13 that class members could use them to purchase tuna without additional out-of-pocket  
14 expense”); *Cody v. SoulCycle Inc.*, 2017 U.S. Dist. LEXIS 163965, at \*19 (C.D. Cal. Oct. 3,  
15 2017) (noting that “there is a crucial difference between coupons and vouchers” and  
16 holding that credits for SoulCycle classes are not coupons subject to CAFA); *Spann v. J.C.*  
17 *Penney Corp.*, 211 F. Supp. 3d 1244, 1262 n.14 (C.D. Cal. 2016) (J.C. Penney store credits  
18 were not coupons under CAFA).

19 Finally, “to the extent that class members were unsatisfied with the settlement, they  
20 were provided the opportunity to opt out if they desired to seek greater compensation.”  
21 *Klee v. Nissan N. Am., Inc.*, 2015 U.S. Dist. LEXIS 88270, at \*25 (C.D. Cal. July 7, 2015).  
22 But, as detailed below, not a single Class Member objected to or opted out of the  
23 Settlement. *See* §IV(B)(5) below (discussing the lack of any opt-outs or objections). This  
24 “suggests that the amount [provided by the Settlement] is fair and adequate.” *Bell v.*  
25 *Consumer Cellular, Inc.*, 2017 U.S. Dist. LEXIS 95401, at \*16 (D. Or. June 21, 2017).  
26  
27  
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1                   **4. Class Counsel has substantial experience with class litigation,**  
2                   **and Class Counsel and the Class Representatives fairly and**  
3                   **adequately represented the Class’s interests.**

4                   In determining whether to grant final approval, courts consider whether class  
5                   counsel and the class representatives adequately represented class interests and, if so, give  
6                   significant weight to Class Counsel’s recommendation. *See Felix v. WM. Bolthouse Farms,*  
7                   *Inc.*, 2020 U.S. Dist. LEXIS 78280, at \*15, \*25 (E.D. Cal. May 4, 2020) (finding that class  
8                   counsel adequately represented the class and “diligently and aggressively pursued” the  
9                   action, and holding that “the views of counsel support[ed] final approval.”).

10                  Throughout the litigation and settlement negotiations, Counsel and the Class  
11                  Representatives represented Class interests more than adequately. And there are no  
12                  indications of fraud or collusion in relation to the Settlement. The Settlement was reached  
13                  after arduous arms-length negotiations conducted through a neutral mediator. *See*  
14                  Preliminary Approval Order at 10 (“[T]he Settlement Agreement was reached after arms-  
15                  length negotiations between counsel for the parties”). The ultimate agreement resulted  
16                  from a mediator’s proposal. *See Ebarle v. Lifelock, Inc.*, 2016 U.S. Dist. LEXIS 6698 at \*18  
17                  (N.D. Cal. Jan. 20, 2016) (finding that acceptance of a mediator’s proposal following  
18                  mediation sessions “strongly suggests the absence of collusion or bad faith”). And, this  
19                  Settlement does not raise any of the “subtle signs” of collusion that the Ninth Circuit has  
20                  been warned about, namely (1) “when counsel receive a disproportionate distribution of  
21                  the settlement, or when the class receives no monetary distribution but class counsel are  
22                  amply rewarded;” (2) ‘clear sailing’ arrangements; and (3) ‘when the parties arrange for fees  
23                  not awarded to revert to defendants rather than be added to the class fund.’” *In re Apple*  
24                  *Inc. Device Performance Litig.*, 2023 U.S. Dist. LEXIS 27892, at \*49-50 (N.D. Cal. Feb. 17,  
25                  2023). Indeed, Class Counsel will not receive a “disproportionate distribution” from the  
26                  Settlement Fund, or be “amply rewarded” while the class receives no monetary  
27                  distribution. Instead, as detailed in Counsel’s Fees Motion, Counsel seeks costs and fees  
28                  of less than 15% of the Settlement Fund—far less than the presumptively reasonable 25%

1 benchmark. *See generally* Motion for Attorneys’ Fees and Incentive Awards; *see In re*  
2 *Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011) (“[C]ourts typically  
3 calculate 25% of the fund as the ‘benchmark’ for a reasonable fee award”); *see* §IV(B)(5)  
4 (explaining that no Class Members objected to Counsels’ fee request). The Parties did not  
5 negotiate any “clear sailing” provision: Defendant was expressly entitled to “challenge or  
6 oppose the amount of fees requested by Class Counsel” (though it ultimately chose not to  
7 do so). Agreement §III(H)(1). And, none of the benefits under the Settlement will revert  
8 to Defendant. The Credit Benefits and Cash Benefits will be fully distributed to Class  
9 Members. *Id.* §§I(F); III(E). The separate fund to pay for costs, fees, and incentive awards  
10 will be used to pay for costs, fees, and incentive awards. And, if there is any money left  
11 over in that fund, that money will be distributed to Class Members too. *Id.* §III(H)(4).<sup>6</sup>

12 Here, Class Counsel has substantial experience with consumer class actions, and  
13 special expertise in fake discount cases in particular. *See* §IV(B)(2) above; Franzini Decl.  
14 ¶¶ 5, 7-9. And, based on this experience, Class Counsel unequivocally recommend this  
15 Settlement as an excellent outcome for the Settlement Class. Franzini Decl. ¶22. Given  
16 “Class Counsel’s experience in prosecuting consumer class actions, including cases  
17 involving [fake discounts], Class Counsel’s recommendations are presumed to be  
18 reasonable” and are entitled to significant weight. *Testone v. Barlean’s Organic Oils, LLC*,  
19 2023 U.S. Dist. LEXIS 37308, at \*10 (S.D. Cal. Mar. 6, 2023); *see In re Apple Inc. Device*  
20 *Performance Litig.*, 2023 U.S. Dist. LEXIS 27892, at \*47 (N.D. Cal. Feb. 17, 2023) (“[T]he  
21 experience and views of counsel ... weigh in favor of approving settlement” where  
22 “Class Counsel has significant experience with consumer class-actions.”); *In re Yahoo! Inc.*  
23 *Customer Data Sec. Breach Litig.*, 2020 U.S. Dist. LEXIS 129939, at \*59 (N.D. Cal. July 22,  
24 2020) (“[T]he views of Plaintiffs’ counsel, who are experienced in litigating and settling

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25 <sup>6</sup> For ease of administration and to avoid delaying payment or making a second  
26 tiny pro rata distribution to Class Members, the value of any un-cashed checks will be  
27 sent by the Settlement Administrator to the National Consumer Law Center rather than  
28 distributed to Class Members. Agreement §VIII. The amounts distributed in this manner  
are expected to be *de minimis* and in any event will not revert back to Defendant.

1 complex consumer class actions, weigh in favor of final approval.”); *Free Range Content,*  
2 *Inc. v. Google, LLC*, 2019 U.S. Dist. LEXIS 47380, at \*22 (N.D. Cal. Mar. 21, 2019)  
3 (“Class counsel’s views that the settlement is a good one is entitled to significant  
4 weight.”); *Razpo v. AT&T Mobility Servs.*, 2023 U.S. Dist. LEXIS 72755, at \*48 (E.D. Cal.  
5 Apr. 26, 2023) (“[O]pinions of counsel are entitled to significant weight and  
6 support final approval of the Settlement”).

7 **5. The Class’s reaction to the settlement was overwhelmingly**  
8 **positive.**

9 “In evaluating the fairness, adequacy, and reasonableness of settlement, courts also  
10 consider the reaction of the class to the settlement.” *Judson v. Goldco Direct, LLC*, 2021 U.S.  
11 Dist. LEXIS 258173, at \*15 (C.D. Cal. June 11, 2021).

12 Here, the reaction of the two Class Representatives was very positive: both strongly  
13 favor the Settlement and believe that it is in the best interests of the Class. Fernandez  
14 Decl. ¶7; Montes De Oca Decl. ¶7; see *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482,  
15 490 (E.D. Cal. 2010) (“Class representatives’ opinions of the settlement are especially  
16 important because ‘[t]he representatives’ views may be important in shaping the  
17 agreement ... [and] representatives may have a better understanding of the case than most  
18 members of the class.”).

19 The reaction of absent class members was also overwhelmingly positive. “To gauge  
20 the reaction of other class members, it is appropriate to evaluate the number of requests  
21 for exclusion, as well as the objections submitted.” *Asghari v. Volkswagen Grp. of Am., Inc.*,  
22 2015 U.S. Dist. LEXIS 188824, at \*68 (C.D. Cal. May 29, 2015). “Courts have repeatedly  
23 recognized that the absence of a large number of objections to a proposed class  
24 action settlement raises a strong presumption that the terms of a proposed  
25 class settlement action are favorable to the class members.” *De Leon v. Ricoh USA, Inc.*,  
26 2020 U.S. Dist. LEXIS 56285, at \*34 (N.D. Cal. Mar. 31, 2020).

27 Here, not a single Class Member opted out of the settlement, and no Class  
28 Members objected, either to the Settlement’s terms or to Class Counsel’s fees and

1 incentive awards request. Lorenzano Decl. ¶19-20. This reaction shows that the Class—  
2 which consists of more than 100,000 people—overwhelming approves the Settlement. *See*  
3 *Shvager*, 2014 U.S. Dist. LEXIS 200808, at \*33 (“The fact that not one class member opted  
4 out or filed objections — including the almost 1,500 class members who received direct  
5 notice of the settlement — indicates that the class overwhelmingly approves the  
6 settlement.”); *Bravo*, 2017 U.S. Dist. LEXIS 77714, at \*36 (because there was an “absence  
7 of any substantive objections to the proposed settlement,” there was a “strong  
8 presumption that the settlement [was] fair,” and this “strongly favor[ed] approval.”);  
9 *Schneider*, 336 F.R.D. 588, 599 (“Given the absence of any well-founded objections and  
10 only one request for exclusion, the Class response weighs strongly in favor of final  
11 approval.”). Courts often approve Settlements that are met with exclusions and  
12 objections—so the absence of any here especially favors approval. *See e.g., Churchill Vill.,*  
13 *L.L.C. v. GE*, 361 F.3d 566, 577 (9th Cir. 2004) (affirming approval of settlement where  
14 “45 of the approximately 90,000 notified class members objected to the settlement,” and  
15 500 opted-out); *Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 852 (N.D. Cal. 2010)  
16 (class reaction was “overwhelming positive” where 4.86% of the class opted out). And  
17 this outcome is particularly notable because the notice plan was robust and effective—as  
18 explained above, almost every Class Member received direct notice either by email or mail.  
19 §III(A). The distributed notice forms provided the substantive details of the Settlement  
20 (and Counsels’ fees request), and provided instructions on how to object or opt-out. *Id.*  
21 Still, not a single Class Member chose to do so.

22 That the Class approves of the Settlement is also shown by the high claims rate.  
23 7.5% of the Class has thus far filed a claim form to receive their Settlement award in cash.  
24 §III(B). And this rate will likely grow before the January 23 claims deadline. Already, this  
25 is a higher-than-average claims rate (especially since Class Members do not need to file a  
26 claim to receive relief), and further shows that Class Members approve of and chose to  
27 engage with the Settlement. *See Munday v. Navy Fed. Credit Union*, 2016 U.S. Dist. LEXIS  
28 193973, at \*23 n.1 (C.D. Cal. Sep. 15, 2016) (“[D]istrict courts have recognized that “[t]he

1 prevailing rule of thumb with respect to consumer class actions is [a claims rate of] 3-5  
2 percent.”); *see e.g., Schneider*, 336 F.R.D. at 599 (“Here, the 0.83% claims rate (which  
3 represents the estimated size of the targeted population of potential class members  
4 compared to the actual claim submissions) is on par with other consumer cases.”); *In re*  
5 *Online DVD*, 779 F.3d at 944-45 (affirming approval of settlement where 1,183,444 of 35  
6 million class members—less than 3.4%—filed claims); *Taylor v. Shutterfly, Inc.*, 2021 U.S.  
7 Dist. LEXIS 237069, at \*21 (N.D. Cal. Dec. 7, 2021) (approving Settlement with an  
8 “overwhelmingly positive [class] response” where, out of 98,000 Class Members, there  
9 were three opt-outs and a cash claims rate of approximately 2.5%).

10 In short, the Class reaction was overwhelmingly positive and strongly supports final  
11 approval.

12 ...

13 Each of the factors considered by courts in determining whether to approve a  
14 proposed settlement strongly weighs in favor of final approval. The Court should  
15 therefore grant final approval here.<sup>7</sup>

16 **V. Conclusion.**

17 For the foregoing reasons, the Motion should be granted.

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21 <sup>7</sup> Courts also consider participation by government entities. *See Staton*, 327 F.3d at  
22 959 (listing relevant factors). Here, this factor is largely “inapplicable and neutral because  
23 no government entity participated in the case.” *Shvager*, 2014 U.S. Dist. LEXIS 200808,  
24 at \*31. However, as explained above, the Parties, through the Settlement Administrator,  
25 provided notice of the Settlement to government entities as required by CAFA. *See*  
26 §III(D) above. And despite this notice, no government entities “objected to the  
27 settlement or submitted adverse comments concerning it.” *Shvager*, 2014 U.S. Dist.  
28 LEXIS 200808, at \*31. Thus, this factor also favors a conclusion “that the settlement is  
fair and reasonable.” *Id.*; *see Browning v. Yahoo! Inc.*, 2007 U.S. Dist. LEXIS 86266, at \*37  
(N.D. Cal. Nov. 16, 2007) (“Because numerous governmental agencies . . . were given  
notice of the settlement and have not objected, this factor weighs in favor of the  
settlement”).

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